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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,867	01/18/2002	Joseph G. Buehl	43314/236951	5358

826 7590 02/08/2007	EXAMINER	
ALSTON & BIRD LLP	SHEPARD, JUSTIN E	
BANK OF AMERICA PLAZA		
101 SOUTH TRYON STREET, SUITE 4000	ART UNIT	PAPER NUMBER
CHARLOTTE, NC 28280-4000	2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
	10/053,867	BUEHL ET AL.
Office Action Summary	Examiner	Art Unit	
	Justin E. Shepard	2623	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *11 December 2006*.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-23* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

12/11/06 has been entered.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are

moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5-7, 9-15, and 17-23 are rejected under 35 U.S.C. 102(e) as being

anticipated by Chen.

Referring to claim 1, Chen discloses an asset combining both related content and data for distribution and service implementation in a digital cable system (figure 1), comprising:

at least one metadata object (column 5, lines 2-7 and 11-14; the tags are being interpreted as the metadata object), wherein the at least one metadata object comprises an application identifier identifying an application associated with processing the asset (column 10, lines 1-15);

at least one content object (column 5, lines 2-7), wherein the at least one content object represents data to be stored based upon instructions originating from the application as a result of interpreting the at least one metadata object (column 9, lines 7-21).

Referring to claim 5, Chen discloses an asset of claim 1, wherein the at least one content object represents data selected from the group comprising an MPEG file (column 4, lines 58-59), an executable file, an HTML page, and a JPEG image.

Referring to claim 6, Chen discloses an asset of claim 1, wherein the at least one metadata object identifies the at least one content object (column 9, lines 7-21).

Referring to claim 7, Chen discloses an asset of claim 1, further comprising a machine readable description identifying the at least one metadata object and the at least one content object (column 9, lines 7-21).

Referring to claim 9, Chen discloses a digital cable system that receives and delivers related content and data to facilitate service implementation in a digital cable system (figure 1), comprising:

a staging server that receives an asset from a content provider (figure 7; column 7, lines 1-3), wherein the asset comprises both content and data related to the content (column 5, lines 2-7), the data related to the content further comprising an application identifier (column 10, lines 1-15);

a content server in communication with a subscriber set-top box for providing the content to the set-top box (figure 7, box 522); and

an application associated with the asset identified by the application identifier to interpret the data related to the content, wherein the application identifies a server that receives at least a portion of the content from the staging server (column 9, lines 7-21).

Referring to claim 10, Chen discloses a system of claim 9, further comprising an asset management system that parses the asset to determine the application using the application identifier (column 9, lines 7-21).

Referring to claim 11, Chen discloses a system of claim 10, wherein the asset management system maintains a database associating the content and the data related to the content (column 4, lines 66-67).

Referring to claim 12, Chen discloses a system of claim 10, wherein the asset management system resides between the application and the staging server such that the staging server (figure 7, part 502) and application (figure 7, part 514) are in indirect communication.

Referring to claim 13, Chen discloses a system of claim 10, wherein the asset management system is operable to instruct the content server to request at least a portion of the content from the staging server (column 9, lines 7-21).

Referring to claim 14, Chen discloses a system of claim 9, wherein the application is operable to identify the content server based upon the data related to the content (column 9, lines 7-21).

Referring to claim 15, Chen discloses a system of claim 9, wherein the content server receives at least a portion of the content from the staging server (column 9, lines 7-21).

Referring to claim 17, Chen discloses a system of claim 9, wherein the application comprises a provisioning user interface (figure 7, parts 508 and 510) to allow a user to identify the at least one server to receive at least a portion of the content (column 7, lines 10-14).

Referring to claim 18, Chen discloses a system of claim 17, wherein the

provisioning user interface allows a user to specify rules for distributing at least a portion

of the content to the content server (column 7, lines 10-14).

Referring to claim 19, Chen discloses a method performed at a cable system

headend for distributing related content and data to facilitate service implementation in a

digital cable system (figure 1), comprising:

receiving an asset, wherein the asset comprises both a machine readable

description identifying content and related data wherein the related data further

comprises an application identifier (column 5, lines 2-7);

storing the asset in a staging server (figure 7, part 502);

parsing the machine readable description to determine an application associated

with the asset and identified by the related data (column 9, lines 7-21);

examining the related data at the application to identify the content server that

should receive at least a portion of the content (column 9, lines 7-21); and

the application instructing the content server to retrieve the content from the

staging server (column 9, lines 7-21).

Referring to claim 20, Chen discloses a method of claim 19, further comprising

the step of receiving the content from the staging server (column 7, lines 5-7).

Referring to claim 21, Chen discloses a method of claim 20, wherein the receiving step comprises receiving the content directly from the staging server (figure 7).

Referring to claim 22, Chen discloses a method of claim 20, wherein the step of parsing the machine readable description to determine an application associated with the asset and identified by the related data comprises: retrieving the machine readable description from the staging server; and parsing the machine readable description to determine an application associated with the asset and identified by the related data (column 9, lines 7-21).

Referring to claim 23, Chen discloses a method of claim 20, wherein the step of examining the related data at the application further comprises the step of identifying the at least one server that should receive at least a portion of the content based upon rules defined by a user associated with the application (column 9, lines 7-21).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Hall.

Referring to claim 2, Chen does not disclose an asset of claim 1, further comprising an embedded asset, such that the asset is recursive.

Hall discloses an asset of claim 1, further comprising an embedded asset, such that the asset is recursive (figure 6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset, comprising at least one embedded object, taught by Hall in the system disclosed by Chen. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Referring to claim 3, Chen does not disclose an asset of claim 2, wherein the embedded asset further comprises at least one embedded content object.

Hall discloses an asset of claim 2, wherein the embedded asset further comprises at least one embedded content object (figure 6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset, comprising at least one embedded object, taught by Hall in the system disclosed by Chen. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Referring to claim 4, Chen does not disclose an asset of claim 2, wherein the embedded asset further comprises at least one embedded metadata object.

Hall discloses an asset of claim 2, wherein the embedded asset further comprises at least one embedded metadata object (figure 6, "PROPERTY 3").

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset taught by Hall in the system disclosed by Chen. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Bergman.

Referring to claim 8, Chen does not disclose an asset of claim 7, wherein the machine readable description comprises XML.

Bergman discloses an asset of claim 7, wherein the machine readable description comprises XML (column 14, lines 58-67).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use XML for the metadata, as taught by Bergman, in the system disclosed by Chen. The motivation would have been to use a well known description language so that it would be simpler for people to create metadata for the content.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen.

The Examiner takes Official Notice that it is notoriously well known in the art to use FTP to transfer files on a communication network.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use FTP to connect up the components disclosed by Chen. The motivation would have been to use a well known protocol to keep development costs down.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS

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